

Meeting The Regular Meeting of the Harmony Township Committee was called to order by Mayor Tipton. Mr. Tipton made the following announcement: “Adequate notice of this meeting was given in accordance with the Open Public Meetings Act by providing a notice of the meeting to the Star Gazette and The Express-Times, posting a copy thereof on the Township bulletin board and filing a copy thereof in the office of the Municipal Clerk.” The Pledge of Allegiance to the American Flag was led by the Mayor.

Roll Call Present Mayor Tipton, Deputy Mayor Yamrock and Committeeman Cornely.

At this time Kelley Smith stepped down as recording secretary and Courtney Morrow is in place due to a conflict in the HS&G matter.

HS&G Mayor Tipton indicated that the restoration appears to be way behind from where they were supposed to be so that is the reason to have you attend. Mayor Tipton asked what the status is and what is the game plan to get caught up. Mr. Wilhelm indicated that he had sent an email to Mayor Tipton asking that this matter be held off until January and the reason is because of the litigation with Star D, the property owners. The Judge had given 30 days to submit post trial briefs and 14 days after that for reply briefs and he is going to be making decisions after so he expects the decision to be made very soon and depending on what happens with that decision is going to affect one or both of the parties. He stated that if the ruling is not favorable to Harmony Sand and Gravel they will most likely see a different set of plans in 2016. If Harmony Sand and Gravel prevails then he doesn't think Star D will have any standing to make further objections so he suggested the matter be held off until January. Mayor Tipton commented that he doesn't think the court case is relevant to what you have to do and what you've agreed to do already. That is the restoration of the areas what was specifically agreed to many months ago was that they were going to move forward with the restoration of the 3 sides that have no impact on the litigation they just have to be done and it was agreed that it had to be done and a time frame was agreed to weather permitting. Mayor Tipton stated it doesn't matter what the Judge says. He's aware of where the case is but it doesn't impact what is supposed to be done. That is why they were asked to come in now, not to talk about next year. Mayor Tipton said the resolution is carried every month, and every month it's postponed because of the litigation, with that he agrees, but as far as the restoration goes that is what we want to know what is going on. Mr. Weber stated they had done some cross sections in August which indicated 16 or 17% of the earthwork has been completed and that is the major component of the work that needs to be done. Mr. Panicucci stated that reports have been submitted twice a month with the quantities. He suggested in August that field work be done to get some quantities to what has been done because they had been estimating on time and production estimates as far as they had been progressing but anybody can guess that. Field work was done on August 25th. The drawings and cross sections were provided about 3 weeks later. It indicated that the work on the east side of the pit was progressing slowly. A lot of time spent grading the upper part. He said a lot of work couldn't get done because of the steep slopes. The material shifts and moves with the heavy equipment. Other work was done stripping land, stock piling material. He indicated that the west side was completed and seeded. Mr. Panicucci summarized by the different work that has been done, broken down into hours. 189 truckloads of fill moved since end of August. Mr. Panicucci stated that the steep slope area is tough to work in because it's an area that Harmony really didn't cause themselves to have such conditions because it's were the creek had breached out from flash flood many years ago. Work is moving faster and greater quantities now. Will do measurements next month for 2016 application. They are pushing to reduce the bond and get the work done. Mayor Tipton asked what the timeline moving forward is to get the east side substantially completed. Mr. Panicucci commented that the ordinance says that they have a year to do reclamation after completion of operations. They had put a timeline together that basically was a 7 month timeline from May-November and that was before they had the experience of working in the area to actually do it so it was optimistic. Based on the quantities of what has been moved at least 1/3 of the fill that is

needed to reclaim the area has been brought into that location. It's hard to project the ability to work in the winter months but he expects by the spring it should be pretty close to being together. Mr. Weber said obviously the December 31st deadline will not be met. Mr. Weber said progress is being made. Mr. Weber said that there is still an issue with the topsoil on the west side. He had advised them a couple of times that there were large rocks in the topsoil. Mr. Weber said there was an agreement between the two sides of the amount and the size of the rocks that could be in the topsoil, and from what he can see, it's kind of an issue. Mr. Wilhelm asked Mr. Weber how he has been conveying that message to HS&G. Mr. Weber stated that when Mr. Panicucci does his progress reports he has responded that based on his inspections the topsoil is not suitable and indicated that if they proceed to continue to bring in more topsoil and spread it you are doing at your own risk. Mayor Tipton said he recalled it being brought up at a meeting and wasn't sure how it got resolved. Mr. Weber said it is still unresolved. He will be visiting the site next week. Mr. Wilhelm suggested that Mr. Hummer be there for the inspection. Mr. Hummer advised him that his inspections have occurred without him present and he thinks this will be helpful. Mr. Cornely said it was mentioned that blading it off would help with the rocks. Mr. Panicucci said he hasn't gone out and inspected it himself, the ordinance requires a 1 to 3 slope for safety purposes and establishing a growth for soil conservation, it doesn't say screened. He said the main purpose for growth is for soil conservation.

Debra Nicholson representing Star D Farm handed out photographs of the property. There was a very explicit determination when the bond was agreed to be a less than amount that the restoration estimates required without even having the number for the haul road situation, and there was also an agreement, Mr. Wilhelm had confirmed, the reason the bond was so expensive was because a restoration bond was intended to have no expiration date. HS&G testified and come before Harmony that they could get a bond that has an expiration date of 12/31/15 and save money and put that in place. There was an agreement and representation that they would be working diligently and earnestly to get all this work done so that they could come in and apply at this meeting, with all the up to date calculations ready, so if there was going to be a new bond issued what the amount would need to be. Ms. Nicholson stated that none of that has been complied with. She indicated she had Mr. Wilhelm's verification that all of that was agreed to when the bond discussion was happening for the May meeting and the minutes confirm that. Now she stated, there is testimony by the Engineer that they have completed the west side and they have fully top soiled it. She indicated that the pictures provided show it is not graded and not clean fill with certificates which is all part and parcel of this entire circumstance since she's been coming to the meetings, that there is significant problems with the type of restoration work done, the pace and the materials that are being used for restoration. For their engineer to indicate that they have completed and seeded one side of the property, this is not a restoration defined in the ordinance. It's not going to stabilize itself, it's covered with rocks, and while they've been trucking lots of product in for future restoration activities, if it's the same material, it's going to create the same problem. She pointed out all the rocks, erosion and problems that are existing in the photographs. Ms. Nicholson said this committee has for almost 3 years been kicking this can down the road. She stated there has not been extraordinary weather circumstances facing this project for months and look at where we're at. There was an agreement that progress reports would be done every 2 weeks and if there was a problem in the 2 week cycle Mr. Weber would bring it to the committee's attention and that there would be compliance and there would not be anything more than a shutdown of operations come December 31st if at this meeting they didn't have the new bond calculation numbers so the committee could determine the amount of the bond that had to be posted because the existing bond expires December 31st. Mayor Tipton spoke to Mr. Wilhelm and Mr. Wilhelm acknowledged that if the work wasn't done the bond would have to be renewed for the full amount. Mr. Tipton indicated that Mr. Webster has to inspect the west side and indicated that the committee is doing what they can under the circumstances. Ms. Nicholson countered that it was agreed that they would be shut down if the work wasn't done by December 31st. Testimony ensued by Ms. Nicholson reviewing what HS&G has not complied with over the years. She noted that the topsoil being put down is not acceptable, the Township Engineer has advised them of such, they still did it, and that is not what it required in the ordinance. She commented how much more does her client's property have to be

affected and impacted and how long can this be drug out without them be accountable and doing one thing that the said they will do. She said they say they've been working hard to do this. She said this is a restoration that has not been paid a whole lot of attention to for a whole lot of years. Their Engineer says they have a year, but they haven't mined on their side of this property since 2009. Mayor Tipton said he understands that they said they haven't stuck with the schedule they provided, but they also said they were working off of estimates and they didn't realize how difficult the one side was going to be. He realizes that the Smith's didn't create the problem, that HS&G dug that spot out the way they did knowing they would have to restore it someday and this Township allowed it to happen and now they are trying to help resolve it and he feels like they are doing the best they can. Mayor Tipton indicated that there is a million dollar bond in place to protect them. Ms. Nicholson recommended that the committee just make them do the restoration work because it's obvious that him running his sand and gravel business is stopping him from doing the restoration. Discussion ensued between Ms. Nicholson and Mayor Tipton. Mrs. Yamrock said Mr. Weber needs to get out and inspect it. The pictures show a lot of rocks and we need his professional opinion. Attorney Campbell said what concerns her is the Mr. Weber had wrote them and he had a concern and he told them that he thinks there are too many rocks, and not until right now, when Mr. Panicucci said 'your ordinance says this'. Ms. Campbell asked that if he disagrees with something Mr. Weber says to write him back and say that they disagree and not to continue to do what they are doing. Mayor Tipton said to have the discussions when problems are noted. Mr. Weber said he is pretty sure the ordinance doesn't deal with the composition of topsoil, just that you are supposed to replace the topsoil. Mr. Weber is saying it's too rocky because there was an agreement when the plans and specifications were being done, the applicant, Mr. Panicucci and Mr. Baer on behalf of Star D went out and looked at the topsoil stock piles on site and said that it was fine to be distributed except it had some rocks and it was agreed that anything over 3" would be not be acceptable and that is what he is basing his conclusions on because that is what was agreed to between the 2 parties and he feels a lot of this area doesn't comply with that. Mr. Wilhelm asked that when Mr. Weber goes to inspect that Mr. Hummer, Mr. Panicucci and he be present. Attorney Campbell also said it's not just the rock issue, if another issue comes up it should be taken care of at that time. Mayor Tipton stated if the Township disagrees with what has been done it will have to be redone or modified. It won't be signed off until Mr. Weber is satisfied. Ms. Nicholson stated that the ordinance says that the restoration plan, such plan should provide for such placement of topsoil and grass covering. Ms. Nicholson asked if she could receive a copy of the reports and Mr. Weber's report. Mayor Tipton said yes. Mayor Tipton stated to Mr. Wilhelm that he must provide proof of a continuation of the same bond for the same value for 2016 one week before December 31, 2016.

Kelley Smith resumed the position of recording secretary at this time.

Consent Motion by Yamrock, seconded by Cornely and carried unanimously to approve
Agenda the following items as discussed under the consent agenda:

Road Department Report	Minutes 10/6/15
W.C. Health Department	Zoning Report

Attorney Report: She will update the committee on the Merrill Creek proceedings within a week.

Engineer's Report: Written report provided. Discussion on the Salt Shed bid ensued at this time. Mayor Tipton indicated the bid came in higher than expected and there are is a variety of options. He is interested in bifurcating the bid process with the base and top being separate. Mayor Tipton asked if the DPW can do the base work. Mr. Cornely suggested the committee go look at some projects that have been done locally. One being Donaldson Farm and Peacefields Farm. Mr. Weber said the height was one reason the prices were higher. Mr. Cornely agreed and said the returns on the end could also be modified. Mr. Cornely said nothing can be done now until spring. Mr. Weber is going to speak with Charles Cavanaugh to let him know the status. Mr. Weber did talk to the low bidder and

he said that the wall height was definitely a factor and suggested 6 ft. high on the walls. Discussion of the structure of the salt sheds took place.

R:15-44
HARMONY TOWNSHIP
WARREN COUNTY, NEW JERSEY

RESOLUTION OF THE TOWNSHIP OF HARMONY, COUNTY OF
WARREN AND STATE OF NEW JERSEY AUTHORIZING REDEMPTION
OF TAX SALE CERTIFICATE NO. 2013-006 ON
BLOCK 39 LOT 27.04

WHEREAS, at the Harmony Township Municipal Tax Sale held on
October 16, 2013 a lien was sold on Block 39 Lot 27.04 also known as 2723
River Road for 2012 delinquent taxes; and

WHEREAS, this lien known as Tax Sale Certificate No. 2013-006 was
sold to US Bank Cust for Pro Capital III LLC for a premium of \$18,100.00 and
recorded with the Warren County Clerks Office December 23, 2013 on Book
5976 Page 61; and

WHEREAS, Wells Fargo Home Mortgage, mortgage company for
homeowner, has satisfied the redemption amount on Certificate No.2013-006 in
the amount of \$12,171.53

NOW, THEREFORE, BE IT RESOLVED on this 3rd day of November
2015 that the Chief Financial Officer is authorized to issue a check in the amount
of \$30,271.53 for the redemption of Tax sale Certificate No. 2013-006 to:

US BANK CUST FOR PRO CAP III LLC
50 SOUTH 16TH STREET SUITE 1950
PHILADELPHIA, PA 19102

CERTIFICATION

I, Kelley D. Smith, Municipal Clerk of the Township of Harmony, County
of Warren and State of New Jersey do hereby certify the foregoing to be a true
and correct copy of a Resolution adopted by Township Committee at a meeting
held on Tuesday, November 3, 2015.

Kelley D. Smith

R:15-45
Harmony Township
Warren County, New Jersey

A RESOLUTION OF THE TOWNSHIP OF HARMONY, COUNTY OF
WARREN AND STATE OF NEW JERSEY APPOINTING WILLIAM
MENNEN AS JUDGE FOR HARMONY MUNICIPAL COURT TO FULFILL
THE TERM OF JUDGE BRUCE JONES

WHEREAS, the Municipal Division of the Superior Court of New Jersey
has requested a temporary appointment be made for a Judge to fulfill the term of
Bruce Jones; and

WHEREAS, William Mennen has been appointed to fulfill the term of
Bruce Jones; and

WHEREAS, the term shall expire on December 31st, 2015.

NOW, THEREFORE, BE IT RESOLVED, by the Committee of the
Township of Harmony, County of Warren and State of New Jersey that William
Mennen shall be appointed to fulfill the term of Municipal Judge Bruce Jones
until December 31st, 2015.

CERTIFICATION

I, Kelley Smith, Municipal Clerk of the Township of Harmony, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Harmony Township Committee on November 3, 2015.

Kelley Smith, Municipal Clerk

Corres-
Pondence

1. Lavery, Selvaggi, Abromitis & Cohen : COAH Litigation
2. Town of Belvidere : Shared Municipal Court
3. Norris & Norris : Rotondi & Sons

New
Business

Motion by Yamrock, seconded by Cornely to introduce the following Ordinance by title only:

**Harmony Township
Warren County, New Jersey
Ordinance No. 15-3**

An Ordinance Appropriating The Sum Of Not More Than \$58,000.00 From The Capital Improvement Fund Of The General Capital Account In Connection With The Costs Attributable To The Paving Of But Not Limited To Railroad Avenue, Pine Street, Alpha Street And 3rd Avenue In The Village Of Brainards

STATEMENT OF PURPOSE:

This Ordinance is intended to appropriate the sum of up to \$58,000.00 from the Capital Improvement Fund of the General Capital Account in conjunction with the costs attributable to the Village Of Brainards Paving Project including but not limited to Railroad Avenue, Pine Street, Alpha Street and 3rd Avenue.

BE IT ORDAINED by the Township Committee of the Township of Harmony, County of Warren and State of New Jersey that:

1. There are funds available in the Capital Improvement Fund of the General Capital Account in the Municipal Budget of the Township of Harmony for costs attributable to the paving project including but not limited to Railroad Avenue, Pine Street, Alpha Street and 3rd Avenue.
2. The costs are associated in addition to the resurfacing of roadways in conjunction with Railroad Avenue improvements being subsidized by Aqua Water Company in the amount of \$67,000.00 which was previously furnished to Harmony Township by Aqua Water Company;
3. There is hereby appropriated the sum of up to an additional \$58,000.00 from the Capital Improvement Fund of the General Capital Account in the Municipal Budget of the Township of Harmony for the aforementioned purpose.
4. There is no debt authorized by this Ordinance.
5. This Ordinance shall take effect upon passage following a public hearing to be conducted thereon and publication of notice of final passage with the requirements of law.

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on first reading by the Harmony Township Committee as its budget meeting held on November 2, 2015, which Ordinance shall be given further consideration for final passage following a public hearing to be conducted thereon, at its regular monthly meeting to be held on December 1, 2015 which shall commence at 7:00 p.m. at the Harmony Township Municipal Building, 3003 Belvidere Road, Phillipsburg, New Jersey.

Kelley D. Smith, RMC
Municipal Clerk

BY ROLL CALL VOTE
IN FAVOR: TIPTON, YAMROCK, CORNELY
OPPOSED: NONE

- Old
Business:
1. Salt Shed Update- discussed in Engineers report.
 2. Consideration of R:15-26; Resolution of memorialization Harmony Sand and Gravel 2015 Quarrying Permit – Tabled to December.
 3. Consideration of a Resolution Dedicating Recreational Field in Memory of Jason Haggerty – carried.
- Vouchers Motion by Cornely, seconded by Yamrock and carried unanimously to approve vouchers recommended for payment by the CFO.
- Public
Comments No public comments at this time.
- Adjourn Motion to adjourn made by Yamrock, seconded by Cornely and carried unanimously.

Respectfully submitted by

Kelley D. Smith, Municipal Clerk